

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**KELLI DENISE GOODE, Individually,  
and also as the Personal Representative of  
Troy Charlton Goode, Deceased, and as  
Mother, Natural Guardian, and Next  
Friend of R.G., a Minor, and also  
on behalf of all similarly situated persons**

**PLAINTIFF**

**V.**

**NO. 3:17-CV-60-DMB-RP**

**THE CITY OF SOUTHAVEN, et al.**

**DEFENDANTS**

**ORDER**

On July 7, 2017, the Southaven Defendants,<sup>1</sup> Southeastern Emergency Physicians, LLC, and Lemuel Donja Oliver, M.D. (collectively, “Movants”), filed a “Joint Motion for Transfer of Trial” requesting that the Court “move the current July 23, 2018 trial set in Greenville, Mississippi to Oxford, Mississippi.” Doc. #297. The Movants argue that they “possess a statutory right to trial in Oxford under 28 U.S.C. section 104, and [that Oxford] is a significantly more convenient venue.” *Id.* at 1–2. On July 21, 2017, Kelli Goode responded in opposition to the motion, arguing that the Movants do not have a statutory right to an intra-district transfer for trial and that they have not met the requisite showing of prejudice for an intra-district transfer. Doc. #304. On August 1, 2017, the Movants replied in support of their motion.<sup>2</sup> Doc. #308.

Eight days later, Goode filed an “Unopposed Motion for Leave to File Sur-Reply to Defendants’ Joint Motion for Transfer of Trial.” Doc. #313. Goode states in her motion that “[i]n

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<sup>1</sup> The Southaven Defendants are the City of Southaven, Todd Baggett, Jeremy Bond, Tyler Price, Joel Rich, Jason Scallorn, Stacie J. Graham, Mike Mueller, William Painter, Jr., Bruce K. Sebring, Joseph Spence, and Richard A. Weatherford.

<sup>2</sup> The Movants were granted a requested extension to reply in support of their motion for transfer. *See* Doc. #307.

its reply brief, Defendants argue for the first time that a transfer should be granted based on the factors outlined in *In re: Volkswagen*, 371 F.3d 201, 203 (5th Cir. 2004)” and that although arguments raised for the first time in a reply brief are generally waived, “out of an abundance of caution, [she] request[s] permission to file a short sur-reply brief ....” *Id.* at 1.

Considering the number of dispositive motions filed in this case and that trial is several months away, the Court declines to decide the issue of trial venue at this time. Should the case proceed beyond the dispositive motions stage, the Movants may renew their motion to transfer trial. Accordingly, the Movants’ joint motion for transfer [297] is **DENIED without prejudice** and Goode’s motion for leave to file a sur-reply [313] is **DENIED as moot**.

**SO ORDERED**, this 16th day of March, 2018.

/s/Debra M. Brown  
**UNITED STATES DISTRICT JUDGE**